WP(C) 2379/2006

BEFORE

HON'BLE THE AMITAVA ROY

Heard Mr. Choudhury, learned Counsel for the petitioner and Mr. Deka, learned State Counsel.

The matter relates to the petitioner's preferential claim for ap pointment in a Grade IV post in the State Service in terms of the Notification N o. ABP-121/92/Pt.-V/136 dated 22/6/2004 embodying ameliorative measures to be ex tended to the families of persons killed by Extremist/Terrorist violence. The un rebutted facts as can be gathered from the writ petition are that the petitioner 's brother Mihimiya Daimari was killed by NDFB extremists on 24/4/1988 at about 8 P.M. in connection with which, on an FIR being lodged, Mazbat Police Station C ase No. 41/88 under section 302/34 IPC was registered. The petitioner thereafter applied for appointment to a Grade IV post under the Assam Public Services (App ointment of Family Members of Persons Killed by Extremists/Terrorists) Rules, 19 92, (hereafter referred to as the Rules) then in force. The averments made in th e petition disclose exchange of correspondences among the authorities concerned indicating a decision on principle to appoint the petitioner to a Grade IV post. In the meantime, however, the Rules were repealed by the aforementioned notific ation, which amongst others contemplated preference to the members of such affec ted families in the matter of recruitment to Government and Semi Government jobs , if certified by the competent District Authority. In terms of the said notifi cation, all pending applications are to be referred back to the jurisdictional D eputy Commissioner for doing the needful. The petitioner has averred that inspit e of the above, no follow up steps have been taken and the family languishes in financial distress.

Mr. Choudhury while abiding by the pleaded facts contends that i t is a fit case where an appropriate writ or direction can be issued to redress the petitioner's grievance. The learned Counsel for the petitioner to buttress h is argument seeks to rely on the decision of this Court in WP(C) 4067/06, Shri D iganta Choudhury versus State of Assam and others, which was disposed of on 20/9 /2006.

Mr. Deka submits that if in the facts and circumstances of the c ase the petitioner is entitled to the succour under the extant guidelines there is no reason why the relief contemplated thereunder would not be provided to him .

I have duly considered the rival submissions. The recorded facts reveal that the petitioner's brother met his end being killed due to some extre mist activities. As stated hereinabove, the documents appended to the writ petit ion, to be specific, the letter dated 29/2/1996 (Annexure 2 to the writ petition) and 22/11/1996 (Annexure 3 to the Writ Petition) reveal a decision of the conc erned State authorities to provide appointment to the petitioner in a Grade IV p ost. Presumably as these developments were prior to 2004, the process was not ta ken to its logical end. The extant guidelines in this regard as contained in the notification dated 22/6/2004 clearly accords preference to the members of the a ffected families in the matter of recruitment in Government and Semi Government jobs subject to certification by the competent District Authority.

In the above view of the matter, having regard to the sequence o f events, I am of the opinion that the petitioner's claim for preferential appoi ntment, notwithstanding the repeal of the Rules does not stand extinguished in l aw. Having regard to the underlying object of the remedial measures envisaged by the State respondents, any other view would be repugnant thereto.

In the above view of the matter, the petition stands disposed wi th the direction to the Secretary to the Government of Assam, Personnel (B) Depa rtment, Guwahati, and the Deputy Commissioner, Darrang, Mangoldoi, to cause imme diate steps to be taken to examine the petitioner's claim for appointment in ter ms of the notification dated 22/6/2004. As the respondent authorities, in princi ple, earlier had taken a decision to appoint the petitioner, the said fact would be borne in mind by the aforementioned authorities in conducting the process. M oreover as the cause of action had arisen in the year 1988, the process as order

ed should be completed within a period of four weeks from the date of receipt of certified copy of this order. No costs.